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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/903,395	07/22/97	KOSLOW E	861-001-9-1

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EXAMINER

LEE, K

ART UNIT

PAPER NUMBER

1774

DATE MAILED: 08/19/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/903395

Applicant(s)

Koslow et al

Examiner

C. Lam

Group Art Unit

1774

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 5-29-98.
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 16-43 is/are pending in the application.
- Of the above claim(s) 26-43 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 16-25 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claim(s) 26-43 are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 7
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

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1. In view of the amendment and comments filed on May 29th 1998, applicant traverses the art rejection and raises the following issues:

A. All of the cited references (ie. Smith et al, Korpman, Karami, and Nishizawa) do not teach (I) a first substrate web having a first surface upon which an absorbent material is disposed; (ii) a second surface from a second web, spaced from the first web; (iii) a particulate iodine resin, a particulate carbon, a particulate liquid absorbent, a particulate sodium bicarbonate, or a particulate magnesium oxide that is fused to a thermoplastic resin.

2. In respond to the above issues:

A. (I)&(ii) Smith teaches an absorbent material (2) over which a thermoplastic contoured film (3) is deposited. The thermoplastic contoured film is comprising of ethylene vinyl acetate copolymer (col 4 L 38-40). The contoured film is bonded to the absorbent material in which iodine is contained (col 7 L 27-33). A carrier material (4) is disposed over the contoured film (3) (Fig. 2). The absorbent material (2) and the carrier material (4) are analogous to the first substrate web and the second substrate web, respectively. In claims 16-17, applicant is not claiming an absorbent material.

Korpman teaches an absorbent material that is disposed between a liquid permeable facing material and a liquid impermeable backing (col 3 L 3-11). The examiner takes the position that the backing and the facing layers are analogous to the 1st substrate web and the 2nd substrate web, respectively.

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Karami teaches an absorbent pad which is comprising of a facing layer (10), a backing sheet (12), a core body (18) and an admixture (16). The admixture is comprising of hydrolyzed starch polyacrylonitrile graft copolymer and sodium bicarbonate (col 2 L 17-23). The examiner takes the position that the backing sheet and the facing layer are analogous to the first substrate web and the second substrate web, respectively.

Nishizawa teaches a disposable diaper comprising of a liquid impermeable backing sheet (1), an absorbent layer (2) and a liquid permeable sheet (3). The liquid impermeable backing sheet and the liquid permeable sheet are analogous to the first substrate web and the second substrate web, respectively.

All the cited references include a first substrate web and a second substrate web with an absorbent material in between.

(iii) The references do not specifically state that the inorganic particulate are "fused" to the thermoplastic resin. **Fuse** is defined by Webster's II New Riverside University Dictionary -- to reduce to a liquid or plastic state by heating: Melt; or mix together by or as if by melting: Blend. **Mold** is defined by Webster's II New Riverside University Dictionary -- a hollow form or matrix for shaping a fluid or plastic substance.

Korpman's absorbent material is comprising of a pressure sensitive adhesive and odor absorbing components. The adhesive and odor absorbing components are formed onto the absorbent material by molten spray (col 4 L 32-38). The adhesive with the odor absorbing components are in molten state, which inherently are blended or fused together.

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Nishizawa also teaches molding a mixture of a polyolefin resin and an inorganic filler to form a film (col 1 L 44-48). In order to mold the mixture, the materials (ie. the polyolefin resin and the inorganic filler) have to be in a fluid or plastic state.

Korpman and Nishizawa indirectly teach the thermoplastic resin and the filler are being fused together.

Thus, with regard to having a particulate iodine resin, a particulate carbon, a particulate liquid absorbent, a particulate sodium bicarbonate, or a particulate magnesium oxide that fused to a thermoplastic resin., judicial notice is taken under the provisions of MPEP 2144.03 that such feature was conventional within the art at the time of the invention.

Election/Restriction

3. Newly submitted claims 26-43 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the claims involve processing steps and different limitations which would create undue burden for the examiner.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 26-43 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claims 26-43 involve coating process which has a separate classification (ie. 427).

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4. The applicant stated in the remarks that the corresponding application which has the processing steps has been allowed. The examiner noticed that the newly added claims and the allowed claims are not quite the same, in the sense that some of the limitations are different. In claims 26 and 34, the average particle sizes of the particulate active agent and the particulate binder material are approximately 80 microns; whereas in the allowed application, these materials have an average particle sizes of 40 microns. Also, in claims 28, 31, and 39, the particulate active agent is in the range of 5-5000 microns, which was not claimed in the allowed application.

The product by process claims involve limitations that are different from the allowed claims, this puts on a burden to the examiner for further searching.

Response to Arguments

5. Applicant's arguments filed on May 29th 1998 have been fully considered but they are not persuasive. The rejection as stated in paper no. 3 is maintained.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cathy Lam whose telephone number is (703) 308-2418.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Krynski, can be reach on (703) 308-2376. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-5408.

Cathy Lam

Cathy Lam

William Krynski
William Krynski
Supervisory Patent Examiner
Technology Center 1700

Patent examiner in Technical Center 1700

August 14, 1998